



With those preliminary matters dispensed with, the Court turns to Defendant's Motion to Dismiss the Amended Complaint. (Doc. No. 14). Federal Rule of Civil Procedure 12(b)(6) permits dismissal of a complaint for failure to state a claim upon which relief can be granted. For purposes of a motion to dismiss, a court must take all of the factual allegations in the complaint as true. *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). To survive a motion to dismiss, a complaint must contain sufficient factual allegations, accepted as true, to state a claim for relief that is plausible on its face. *Id.* at 678. A claim has facial plausibility when the plaintiff pleads facts that allow the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* In reviewing a motion to dismiss, the Court construes the complaint in the light most favorable to the plaintiff, accepts its allegations as true, and draws all reasonable inferences in favor of the plaintiff. *Directv, Inc. v. Treesh*, 487 F.3d 471, 476 (6th Cir. 2007). Thus, dismissal is appropriate only if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Guzman v. U.S. Dep't of Children's Servs.*, 679 F.3d 425, 429 (6th Cir. 2012).


This case concerns an insurance claim for damages to Plaintiff's building as a result of detonation of a bomb in downtown Nashville on December 25, 2020. The parties disagree on the amount of loss. Pursuant to the terms of the Insurance Policy, the parties each selected an Appraiser and the two Appraisers selected an Umpire. Because the appraisers did not agree on the amount of the loss, they submitted their difference to the Umpire, who issued an Appraisal Award. Plaintiff contends that the appraiser's one-page Appraisal Award was issued in violation of the process required by the appraisal provision of the Insurance Policy. Plaintiff seeks declaratory judgment either setting aside the Umpire's Appraisal Award or, in the alternative, clarifying alleged ambiguities in the Award. Defendant argues that the case is not proper for declaratory

judgment and that, under Tennessee law, unless the Umpire exceeded his authority, the Plaintiff has no legal recourse from a final appraisal award.

Accepting the facts alleged in the Amended Complaint as true, the Court finds that Plaintiff states a claim upon which relief can be granted. *See Thomas v. Standard Fire Ins. Co.*, 2016 WL 638559 (Tenn. Ct. App. 2016) (holding that parties may not challenge the umpire award based solely on the amount of award determined by the umpire, but suggesting that a party may challenge an umpire award for reasons unrelated to the amount of the award, such as application of the process).

Accordingly, Defendant's Motion to Dismiss (Doc. No. 14) is **DENIED**. In addition, because Plaintiff has filed an amended complaint, which is the subject of the instant motion to dismiss, the previously filed motion to dismiss (Doc. No. 8), which addresses the original complaint, is **DENIED AS MOOT**.

It is so **ORDERED**.

  
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WILLIAM L. CAMPBELL, JR.  
CHIEF UNITED STATES DISTRICT JUDGE